

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MINNESOTA**

In Re:	)	
	)	
Dennis E. Hecker,	)	<b>Bankruptcy Case No. 09-50779</b>
	)	<b>Chapter 7</b>
Debtor.	)	
	)	The Honorable Robert J. Kressel
	)	
<hr style="width: 100%; border: 0.5px solid black;"/>	)	
Mackall, Crounse & Moore, PLC,	)	
	)	<b>Adversary No. 10-05015</b>
Plaintiff,	)	
	)	
vs.	)	
	)	
Dennis e. Hecker; Chrysler Financial	)	
Services Americas LLC; Toyota Motor	)	
Credit Corporation; Toyota Financial	)	
Savings Bank; Inver Grove Motors,	)	
LLC d/b/a Denny Hecker's Inver Grove	)	
Toyota; Jacob Holdings of Highway	)	
110 LLC; Jacob Holdings of Akron	)	
Avenue, LLC; and Randall Seaver,	)	
	)	
Defendants.	)	
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**NOTICE OF MOTION TO INTERVENE AS A DEFENDANT IN THE ABOVE  
ENTITLED MATTER**

TO: ALL PARTIES OF INTEREST:

1. Cornerstone Bank, Cornerstone Holding Company, Inc., and Blackstone Financial, LLC, hereinafter jointly and severally referred to as "CornerStone", by its attorney of record, moves the Court for the relief requested below and gives this notice of hearing:

2. The Court will hold a hearing on this motion at 2:00 p.m. on May 12, 2010 before the Honorable Judge Robert J. Kressel in Courtroom No. 8W United States Bankruptcy Court, 300 South Fourth Street, Minneapolis, Minnesota.

3. Any response to this motion must be delivered and filed no later than May 7, 2010 which is three days before the time set for the hearing (excluding Saturdays, Sundays and holidays) or filed and served by mail no later than May 3, 2010, which is seven days before the date set for hearing (excluding Saturdays, Sundays and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT HEARING.

4. CornerStone respectfully requests to interplead to be a Defendant in the above entitled matter pursuant to recent motion filed by Mackall, Crounse & Moore, PLC. CornerStone is a party of interest in the proceeds held in trust by Mackall, Crounse & Moore. CornerStone asserts that its security interest in the Debtor's general intangibles extends to all funds the Trustee may receive from the sale of Denny Hecker's interest in Inver Grove Motors, LLC, d/b/a Denny Hecker's Inver Grove Toyota; Jacob Holdings of Highway 110 LLC; and Jacob Holdings of Akron Avenue, LLC.

5. For the reasons asserted in the accompanying brief, CornerStone Bank respectfully requests to interplead in the above entitled matter.

Dated this 23<sup>rd</sup> day of April, 2010.

/s/ Brad A. Sinclair  
Brad A. Sinclair (#0161652), of  
SERKLAND LAW FIRM  
10 Roberts Street  
PO Box 6017  
Fargo, ND 58108-6017  
(701) 232-8957  
**ATTORNEYS FOR  
CORNERSTONE BANK  
CORNERSTONE HOLDING  
COMPANY, INC., AND  
BLACKSTONE FINANCIAL,  
LLC**

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Savings Bank; Inver Grove Motors,	)	
LLC d/b/a Denny Hecker's Inver Grove	)	
Toyota; Jacob Holdings of Highway	)	
110 LLC; Jacob Holdings of Akron	)	
Avenue, LLC; and Randall Seaver,	)	
	)	
Defendants.	)	
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**MOTION TO INTERVENE AS A DEFENDANT**

CornerStone Bank, CornerStone Holding Company, Inc., and Blackstone Financial, LLC, hereinafter jointly and severally referred to as "CornerStone", hereby moves the court for leave to intervene as a Defendant in the above entitled matter in order to assert an interest in the proceeds being held by Mackall, Crounse & Moore, PLC, as more fully set forth in the proposed answer of CornerStone, a copy of which is attached hereto as Exhibit A.

Pursuant to Federal Rules of Civil Procedure Rule 24 and all other applicable Federal and Bankruptcy Code Rules, the Court is to permit CornerStone to intervene in the present litigation since CornerStone claims an interest relating to property or a

transaction that is the subject of the present action and since the disposition of the same may impair or impede CornerStone's ability to protect its interests unless CornerStone is otherwise allowed to intervene.

Dated this 22<sup>nd</sup> day of April, 2010.



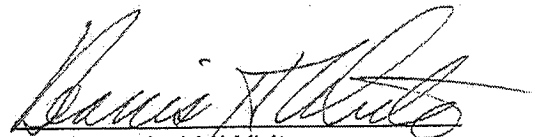
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**VERIFICATION**

I, Dennis H. White, Chairman/CEO/Agent for Cornerstone Bank, Cornerstone Holding Company, Inc., and Blackstone Financial, LLC, the movant named in the foregoing Notice of Hearing and Motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information, and belief.

Executed on April 23<sup>rd</sup>, 2010.

Signed:



By: Dennis H. White  
Its: Chairman/CEO/Agent

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Toyota; Jacob Holdings of Highway	)	
110 LLC; Jacob Holdings of Akron	)	
Avenue, LLC; and Randall Seaver,	)	
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Defendants.	)	
	)	

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**CORNERSTONE BANK, CORNERSTONE HOLDING COMPANY, INC., AND  
BLACKSTONE FINANCIAL, LLC'S ANSWER TO INTERPLEADER COMPLAINT**

CornerStone Bank, CornerStone Holding Company, Inc., and Blackstone Financial, LLC, hereinafter referred to as "CornerStone" for its answer to the interpleader Complaint in the above entitled matter, hereby respectfully states and alleges to the court as follows:

1. Unless otherwise admitted, qualified or explained, CornerStone denies each and every allegation of the interpleader Complaint and holds the Plaintiff to the strictest proof thereof.

2. CornerStone admits the all of the allegations as contained in the Complaint.

3. CornerStone asserts that it is an indispensable party to the above referred to litigation and assert that it has an interest in the proceeds received from the sale of the Debtor's interests in Inver Grove Motors, LLC, d/b/a Denny Hecker's Inver Grove Toyota and Jacob Holdings of Highway 110 LLC; and Jacob Holdings of Akron Avenue, LLC.

4. That on or about December 15, 2008, CornerStone was granted a security interest in Denny Hecker's general intangibles.

5. Pursuant to Minn. Stat. § 336.8-103, CornerStone's security interests in Denny Hecker's general intangibles extends to Denny Hecker's membership interests in Inver Grove Motors, LLC, d/b/a Denny Hecker's Inver Grove Toyota; Jacob Holdings of Highway 110 LLC; and Jacob Holdings of Akron Avenue, LLC.

6. CornerStone Bank assert that surplus proceeds that the estate will receive from the sale of Denny Hecker's interests in Inver Grove Motors, Jacob Holdings of Highway 110 and Jacob Holdings of Akron is subject to the lien of CornerStone.

7. That CornerStone's lien is superior and paramount to that of Chrysler Financial Services and the Trustee, Randall Seaver.

WHEREFORE, CornerStone respectfully requests that this Court enter judgment in favor of CornerStone and against all of the other Defendants:

1. Decreeing that CornerStone's interests in all surplus proceeds the Plaintiff has received from the sale of Denny Hecker's interests in Inver Grove Motors, Jacob

Holdings of Highway 110, and Jacob Holdings of Akron is superior and paramount to the interests of any and all Defendants;

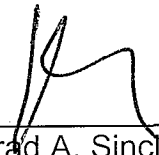
2. Court order that all proceeds in the possession of the Plaintiff be surrendered and tendered to CornerStone;

3. For an order authorizing and reserving unto CornerStone all of the affirmative defenses as set forth in Federal Rules of Civil Procedure Rule 8(c);

4. For an order authorizing CornerStone to amend its answer upon the completion of discovery;

5. Awarding CornerStone such other and further and relief as this Court deems just and equitable.

Dated this 22 day of April, 2010.

  
\_\_\_\_\_  
Brad A. Sinclair (#0161652), of  
SERKLAND LAW FIRM  
10 Roberts Street  
PO Box 6017  
Fargo, ND 58108-6017  
(701) 232-8957  
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Savings Bank; Inver Grove Motors,	)	
LLC d/b/a Denny Hecker's Inver Grove	)	
Toyota; Jacob Holdings of Highway	)	
110 LLC; Jacob Holdings of Akron	)	
Avenue, LLC; and Randall Seaver,	)	
	)	
Defendants.	)	
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**BRIEF IN SUPPORT OF MOTION TO INTERPLEAD AS A DEFENDANT**

**FACTUAL SUMMARY**

1. The Plaintiff has a Complaint for Interpleader.
2. CornerStone Bank asserts an interest in the proceeds in the possession of the Plaintiff.
3. CornerStone desire to interplead in the above entitled matter.



## **LAW AND ARGUMENT**

### **CORNERSTONE BANK SHOULD BE ALLOWED TO INTERPLEAD IN THE ABOVE ENTITLED MATTER**

CornerStone asserts an interest in the proceeds that the Plaintiff has in its possession from the sale of Denny Hecker's interest in Inver Grove Motors, LLC d/b/a Denny Hecker's Inver Grove Toyota; Jacob Holdings of Highway 110 LLC; and Jacob Holdings of Akron Avenue, LLC, hereinafter referred to as "Hecker Entities". CornerStone's interest arises from the Debtor granting CornerStone a security interest on or about December 15, 2008, in Denny Hecker's general intangibles. Pursuant to Minn. Stat. § 336.8-103, proceeds received from the sale of interest in a limited liability company is a general intangible. Proceeds that Mackall, Crounse & Moore are holding in their possession concern the sale of Denny Hecker's interests in the Hecker Entities. The funds are subject to CornerStone's security interests. CornerStone's security interests are identical to that of Chrysler Financial Services except CornerStone's interests are superior to Chrysler.

For the reasons cited herewithin, this Court grant CornerStone's motion to interplead in the above entitled matter.

## **CONCLUSION**

This Court should grant CornerStone's motion to interplead in the above entitled matter.

Dated this 23<sup>rd</sup> day of April, 2010.

/s/ Brad A. Sinclair

Brad A. Sinclair (#0161652), of  
SERKLAND LAW FIRM  
10 Roberts Street  
PO Box 6017  
Fargo, ND 58108-6017  
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Mackall, Crounse & Moore, PLC,	)	
	)	<b>Adversary No. 10-05015</b>
Plaintiff,	)	
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vs.	)	
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Dennis e. Hecker; Chrysler Financial	)	
Services Americas LLC; Toyota Motor	)	
Credit Corporation; Toyota Financial	)	
Savings Bank; Inver Grove Motors,	)	
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Toyota; Jacob Holdings of Highway	)	
110 LLC; Jacob Holdings of Akron	)	
Avenue, LLC; and Randall Seaver,	)	
	)	
Defendants.	)	
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**AFFIDAVIT OF SERVICE BY MAIL**

Sherry Michelson, being duly sworn, deposes and says that she is a resident of the City of Moorhead, State of Minnesota, is of legal age; and that she served the within

1. Notice of Motion to Intervene as a Defendant in the Above Entitled Matter;
2. Motion to Intervene as Defendant;
3. Brief in Support of Motion to Interplead as a Defendant; and
4. Proposed Order

thereof in an envelope addressed as follows, to-wit:

Dennis E. Hecker  
PO Box 1017  
Crosslake, MN 56442

Chrysler Financial Services Americas LLC  
30600 Telegraph Rd, Ste 2345  
Bingham Farms, MI 48025

Toyota Motor Credit Corporation  
19001 South Western Ave  
Torrance, CA 90501

Toyota Financial Savings Bank  
2485 Village View Dr, Ste 220  
Henderson, NV 89074

Inver Grove Motors LLC  
d/b/a Denny Hecker's Inver Grove Toyota  
500 Ford Rd  
Minneapolis, MN 55426

Jacob Holdings of Highway 110 LLC  
500 Ford Rd  
Minneapolis, MN 55426

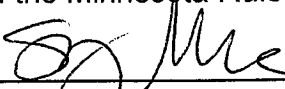
Jacob Holdings of Akron Avenue, LLC  
500 Ford Rd  
Minneapolis, MN 55426

Randall L. Seaver  
Fuller, Seaver & Ramette, P.A.  
12400 Portland Ave S, Ste 132  
Burnsville, MN 55337

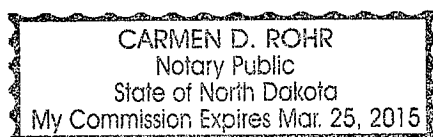
Andrew Paul Moratzka  
Mackall, Crounse & Moore  
1400 AT&T Tower  
901 Marquette Ave  
Minneapolis, MN 55402

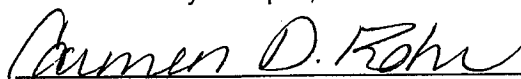
and depositing the same with postage prepaid in the United States mail at Fargo, North Dakota.

To the best of affiant's knowledge, the address above given is the actual post office address of the party intended to be so served. The above document was mailed in accordance with the provisions of the Minnesota Rules of Civil Procedure.

  
Sherry Michelson

Subscribed and sworn to before me this 26<sup>th</sup> day of April, 2010.



  
Carmen D. Rohr  
Notary Public

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	)	The Honorable Robert J. Kressel
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	)	<b>Adversary No. 10-05015</b>
Plaintiff,	)	
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vs.	)	
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110 LLC; Jacob Holdings of Akron	)	
Avenue, LLC; and Randall Seaver,	)	
	)	
Defendants.	)	
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**ORDER**

CornerStone Bank filed a motion to interplead in the above entitled matter. The court having reviewed the filing, the pleadings, and no objections having been filed;

IT IS HEREBY ORDERED that CornerStone is allowed to interplead as a Defendant in the above entitled matter.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

---

Robert J. Kressel  
Judge of the United States  
Bankruptcy Court